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9 Attorneys for Plaintiff
FEMTO-SEC TECH, INC.

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 FEMTO-SEC TECH, INC., a California
15 Corporation,

Plaintiff,

16
17 v.

18 LENSAR, INC., a Delaware Corporation,

19 Defendant.
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No. 8:15-cv-1689

**COMPLAINT FOR PATENT
INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

1 Plaintiff Femto-Sec Tech, Inc. ("Femto-Sec"), by and through its undersigned
2 attorneys, pleads as follows:

3 **I. PARTIES**

4 1. Femto-Sec is a corporation organized and existing under the laws of the
5 State of California having its principal place of business in Aliso Viejo, California.

6 2. LensAR, Inc. ("LensAR") is a corporation organized and existing under
7 the laws of the State of Delaware, having its headquarters in Orlando, Florida.

8 **II. JURISDICTION AND VENUE**

9 3. This Court has subject matter jurisdiction for this action pursuant to 28
10 U.S.C. §§ 1331 and 1338.

11 4. On information and belief, this Court has personal jurisdiction over
12 LensAR for the reasons, among others, that (i) LensAR transacts business by selling
13 infringing product in California, and (ii) LensAR maintains an agent for service of
14 process in Sanger, California.

15 5. Venue is proper in this District because LensAR resides in this District
16 within the meaning of 28 U.S.C. §§ 1391 and 1400(b).

17 **III. FACTUAL ALLEGATIONS**

18 **A. Dr. Neev**

19 6. Dr. Joseph Neev, President of Femto-Sec, is a physicist and an inventor
20 of revolutionary applications of lasers in the ophthalmic, dermatological, dental and
21 cardiovascular fields.

22 7. Dr. Neev's career in advancing the use of laser technology to optimize
23 surgical applications began in the late 1980s. His contributions to augment the use of
24 lasers in medical and other applications is well-recognized in the industry, and can be
25 seen through his numerous publications and his affiliation with reputable institutions
26 such as Lawrence Livermore National Laboratory ("Livermore"), the University of
27 California at Irvine ("UCI"), the Beckman Laser Institute, the University of California
28

1 at San Diego, the University of California at San Francisco, Cornell University School
2 of Medicine, the University of Texas at Austin, Stanford University's School of
3 Medicine, and Duke University's School of Medicine. As an internationally
4 recognized leader in the field of femtosecond lasers in surgery and medicine, Dr. Neev
5 was asked, in the mid-1990's, to organize the first conference on commercial and
6 biomedical applications of ultra-short pulse lasers and served as the conference chair
7 or co-chair for over a decade.

8 8. In the mid and late 1990s, Dr. Neev worked as an assistant professor of
9 surgery at the Beckman Laser Institute and Medical Clinic, which was part of the
10 Department of Surgery at UCI. At the time, Dr. Neev worked with other University of
11 California scientists at Livermore on research and development projects relating to
12 ultra-short pulse lasers. Livermore, which was managed by the University of
13 California at the time, is a federally funded research laboratory, entrusted with
14 strengthening the United States' security through the development and application of
15 world-class science and technology.

16 9. Dr. Neev and his collaborators at Livermore developed foundational
17 technology relating to ultra-short pulse lasers with various applications. The Regents
18 of the University of California ("The Regents") applied for and received various
19 patents relating to this foundational technology. Among these patents is U.S. Patent
20 Nos. 5,720,894 (the "'894 Patent"), entitled "Ultrashort Pulse High Repetition Rate
21 Laser System for Biological Tissue Processing," which was issued by the U.S. Patent
22 and Trademark Office on February 24, 1998. Dr. Neev is a named inventor of the
23 '894 patent.

24 10. Following his departure from UCI, Dr. Neev continued his research
25 concerning medical applications of laser technology. Dr. Neev's subsequent work has
26 resulted in the issuance of 15 U.S. Patents covering various laser and light-based
27 biomedical applications, including U.S. Patent No. 6,482,199.
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B. The Femto-LLNS License

11. Dr. Neev founded Femto-Sec in or about 2007. Femto-Sec is engaged in research and development in the field of ultra-short pulse lasers for medical, ophthalmic, dental, and industrial applications.

12. In 2007, Femto-Sec invested significant funds to acquire an exclusive field-of-use license to a group of patents relating to, among other things, femtosecond lasers. As of August 29, 2007, Femto-Sec and The Regents, on information and belief at that time the manager of Livermore, entered into a Limited Exclusive Patent License Agreement for Short-Pulse Laser Technology (“the Femto-LLNS License”). Femto-Sec paid to license patents based on technology developed by Dr. Neev as well as on technology developed by Dr. Neev’s former colleagues at Livermore.

13. Under the Femto-LLNS License, Femto-Sec was granted an exclusive royalty-bearing license under five patents related to ultra-short pulse laser technology within a field of use comprising medical applications for humans and animals, including medical devices and cosmetic applications, and biological treatments for plants. One of those patents was the ‘894 Patent.

C. The LENSAR[®] Laser System

14. LensAR markets and sells the LENSAR[®] Laser System in the United States.

15. The LENSAR[®] Laser System is an ophthalmic surgical laser intended for laser in anterior capsulotomy and laser phacofragmentation in cataract surgery. It has at least the following indicated uses:

- Anterior capsulotomy and laser phacofragmentation;
- Removal of the crystalline lens;
- Creation of full and partial thickness single plane and multi-plane cuts/incisions in the cornea.

1 25. LensAR does not currently have nor has it ever had a license under the
2 ‘894 Patent.

3 26. Femto-Sec has sustained significant damages as a direct and proximate
4 result of LensAR's infringement of the ‘894 Patent.

5 27. Femto-Sec will suffer and is suffering irreparable harm from LensAR's
6 infringement of the ‘894 Patent. Femto-Sec is entitled to an injunction against
7 LensAR's continuing infringement of the ‘894 Patent. Unless enjoined, LensAR will
8 continue their infringing conduct.

9 28. LensAR's infringement of the ‘894 Patent is exceptional and entitles
10 Femto-Sec to attorneys’ fees and costs incurred in prosecuting this action.

11 **RELIEF REQUESTED**

12 WHEREFORE, Femto-Sec prays that the Court enter judgment as follows:

13 A. That LensAR has infringed and continues to infringe the ‘894 Patent and
14 that the ‘894 Patent is not invalid and is enforceable;

15 B. Awarding Femto-Sec damages adequate to compensate it for LensAR's
16 infringement of the ‘894 Patent, in an amount to be determined at trial, but in no event
17 less than a reasonable royalty for the use made of the claimed inventions by them;

18 C. Awarding a preliminary and permanent injunction restraining and
19 enjoining LensAR, and their officers, agents, servants, employees, attorneys, and any
20 persons in active concert or participation with them who receive actual notice of the
21 order by personal service or otherwise, from any further manufacture, use, sales, offers
22 to sell, or importations of any and all of the products and services identified above;

23 D. Trebling all damages awarded to Femto-Sec under the ‘894 Patent;

24 E. Finding this case exceptional and awarding to Femto-Sec its reasonable
25 attorneys’ fees incurred in prosecuting its claims for patent infringement;

26 F. Costs and interest;

27 G. Such other relief as the Court determines to be just and proper.
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1
2 DATED: October 20, 2015

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14 Attorneys for Plaintiff

15 FEMTO-SEC TECH, INC

DEMAND FOR JURY TRIAL

Femto-Sec requests a jury trial for all issues triable to a jury.

DATED: October 20, 2015

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